



U.S. Department of Justice

Immigration and Naturalization Service

[Handwritten initials]

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

[Redacted]

[Handwritten stamp: PUBLIC 100V]

File:

IN RE:

Petitioner:
Applicant:

Application:

Date:

JAN 21 2000

IN BEHALF OF APPLICANT:

[Redacted]

*Identifying...
prevent clearly identified
invasion of personal privacy*

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

[Signature]
Terrance M. O'Reilly, Director
Administrative Appeals Office

DISCUSSION: The petition for a nonimmigrant worker was filed as an application for an extension of the applicant's temporary stay in the United States as an E-2 Treaty Investor pursuant to 8 C.F.R. 214.1(c)(1).

The petition was denied by the Director, Texas Service Center, who incorrectly advised the applicant that a motion in his case may be made to the Associate Commissioner for Examinations. The motion will be rejected.

The regulation at 8 C.F.R. 214.1(c)(5) states:

Decision in Form I-129 or I-539 extension proceedings. Where an applicant or petitioner demonstrates eligibility for a requested extension, it may be granted at the discretion of the Service. There is no appeal from the denial of an application for extension of stay filed on Form I-129 or I-539.

The regulation at 8 C.F.R. 103.5(a)(6) states:

Appeal to AAU from Service decision made as a result of a motion. A field office decision made as a result of a motion may be applied (sic) to the AAU only if the original decision was appealable to the AAU.

ORDER: The motion is rejected.